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December 8, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Ex Parte Presentation  
CC Docket No. 97-100

Dear Ms. Salas:

On December 4, 1997, Steve Sanders, Steve Farris and under-signed counsel met with Alexander Starr and Jonathan Askin of the Common Carrier Bureau's Policy & Program Planning Division to discuss the Arkansas Telecommunications Reform Act of 1997 (Arkansas Act).

Mr. Sanders is the President of Northern Arkansas Telephone Company (NATCO), a rural local exchange carrier (LEC) which has opposed requests for preemption of the Arkansas Act. Mr. Farris is a member of the Arkansas House of Representatives, and is also an executive with the Arkansas Telephone Association. Counsel is FCC counsel for NATCO.

NATCO reiterated its position that the Arkansas Act does not conflict with the Communications Act. For example, Section 5(d) of the Arkansas Act (which provides for a single Eligible Telecommunications Carrier (ETCs) in rural telephone company service areas) is consistent with Section 214(e)(2) of the Communications Act (which allows a state to designate a single ETC in rural telephone company service areas). Likewise, the Arkansas Universal Service Fund (AUSF) established in Section 4 of the Arkansas Act is consistent with the state universal service provisions in Section 254(f) of the federal Act.

Representative Farris described the development and drafting of the Arkansas Act during the course of numerous meetings over a lengthy period. He stated that it was ultimately passed by 90+ percent, bipartisan majorities of both houses of the Arkansas

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General Assembly, and promptly signed into law by Governor Huckabee. Representative Farris confirmed that the Arkansas Act was intended to be consistent with the Communications Act, while addressing the unique conditions of Arkansas -- particularly, the rural nature of much of the state and the limited incomes and financial resources of the people within those rural areas.

Messers. Sanders and Farris noted that a primary purpose of the Arkansas Act was to preserve and enhance the telecommunications services available to the residents of rural Arkansas. The small carriers presently serving many of these rural areas are the only entities that have ever shown an interest in serving them, and there has been no indication that any local exchange competitors are ready, willing and able to serve the households of rural Arkansas. The only "competition" likely in rural Arkansas is continued, sporadic attempts by interexchange carriers and others to bypass local exchange carriers and directly serve industrial parks and other substantial multi-line business customers.

Messers. Sanders and Farris indicated that airline "competition" has not brought the predicted benefits to rural Arkansas, but rather has resulted in reduced service and higher rates. They do not believe that the offering of AUSF funding as an incentive to encourage new competitors to serve rural areas would improve rural telecommunications service in the short or long term; constitute an effective use of public funds; or receive the support of the General Assembly or Arkansas voters.

In sum, Messers. Sanders and Farris sought to convey to the Bureau that the Arkansas Act was a well considered effort by the Arkansas General Assembly to preserve and enhance the telecommunications services available within their predominately rural state in a manner both responsive to local circumstances and consistent with federal law. Preemption of such legislation is neither warranted nor appropriate. Among other things, it would constitute a serious undermining of the jurisdiction and sovereignty of the Arkansas General Assembly, without producing any improvements in service or increases in competition within rural Arkansas.

If you have any questions regarding this meeting, please feel free to contact me.

Very truly yours,

  
Gerard J. Duffy

cc: Alexander Starr  
Jonathan Askin